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No. 97719-4

Court of Appeals Nos. 50847-8-II (Consolidated) and 51745-1-II
IN THE SUPREME COURT OF THE STATE OF WASHINGTON

CLARK COUNTY,

Respondent,

FRIENDS OF CLARK COUNTY and FUTUREWISE,

Respondent,

CITY OF RIDGEFIELD; CITY OF LA CENTER; RDGB ROYAL
ESTATE FARMS LLC, RDGK REST VIEW ESTATES LLC, RDGM
RAWHIDE ESTATES LLC, RDGF RIVER VIEW ESTATES LLC,
RDGS REAL VIEW LLC; and 3B NORTHWEST LLC,

Respondents,

and

CLARK COUNTY CITIZENS UNITED, INC.,

Petitioner,

v.

GROWTH MANAGEMENT HEARINGS BOARD,

Respondent.

**REPLY AND JOINDER OF 3B NW LLC
IN OPPOSITION TO REVIEW OF ISSUE 1
RAISED IN FUTUREWISE'S AND FRIENDS OF CLARK
COUNTY'S ANSWER TO PETITION FOR REVIEW**

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I. INTRODUCTION

This reply brief is submitted on behalf of 3B NW LLC (“3B”) in response and opposition to the Answer, Raising New Issues, to the Clark County Citizens United, Inc. Petition for Review filed by Futurewise and Friends of Clark County on October 17, 2019 (“Answer”). Futurewise’s Answer raised two new issues. This reply focuses only on Futurewise’s Issue I, namely: “Whether annexations immunize comprehensive plan amendments from Board appeals or moot out ongoing Board appeals?”

Because Futurewise’s Issue 1 it is not an issue of substantial public interest warranting Supreme Court review, and that is the only basis upon which Futurewise sought discretionary, Futurewise’s request for judicial review of Issue 1 should be denied.

II. COURT OF APPEALS DECISION

The Court of Appeal decision of which Futurewise seeks review is *Clark County v. Growth Mgmt. Hr’gs Bd.*, 10 Wn. App. 2d 84, 448 P.3d 81, 2019 Wash. App. LEXIS 2217 (August 20, 2019) (“*Clark County Decision*”).

III. ISSUE PRESENTED

Whether the *Clark County Decision* correctly held that issues regarding lands annexed by the cities of La Center and Ridgefield are moot because the GMHB cannot provide effective relief where Clark County has no GMA jurisdiction over land inside city limits.

IV. BACKGROUND SUMMARY

This case is one of several appeals related to the Growth Management Hearings Board's (the "Board's") decision finding Clark County's 2016 update of its Comprehensive Plan violated the Growth Management Act ("GMA").

In its 2016 update, Clark County de-designated various agricultural lands and expanded Urban Growth Areas ("UGAs") adjacent to the cities of La Center and Ridgefield, effective June 28, 2016. AR 359. 3B owned some of the affected land near the City of La Center. AR 7281; 728307288. On August 10, 2016, the City of La Center adopted Ordinance No. 2016-098, annexing 3B's land. AR 7281-7282, 7290.

No one challenged the La Center annexation. Futurewise challenged the County's 2016 update seeking review from the Board. AR 226-236. On March 23, 2017, the Board issued its Final Decision and Order (FDO) more than seven months after the City of La Center's annexation ordinance became effective. AR 10457-10559.

In August 2019, the Court of Appeals reversed the Board, in the *Clark County Decision*, holding that because the land at issue had already been annexed by La Center and Ridgefield, the Board could not afford the requested relief; the issues raised by Futurewise regarding La Center's and Ridgefield's expanded UGAs and the annexed lands are moot. *Clark County Decision*, 2019 Wash. App. LEXIS 2217 at ¶¶ 9, 40-65.

Clark County Citizen's United (CCCU) petitioned this court for judicial review, as to a different portion of the *Clark County Decision*. In their answer to CCCU's petition, Futurewise raised Issue 1, which 3B hereby opposes because it is not an issue of substantial public interest warranting Supreme Court review.

V. ARGUMENT WHY REVIEW OF FUTUREWISE'S ISSUE 1 SHOULD NOT BE ACCEPTED

3B hereby joins in the Reply of the City of La Center in Opposition to Review of Issue 1 Raised in Futurewise's and Friends of Clark County's Answer to Petition for Review filed on November 18, 2019 and incorporates it by reference as if it were set forth fully herein.

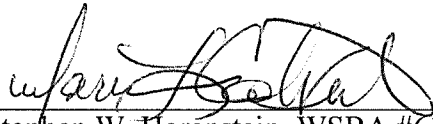
Furthermore, 3B joins in the legal arguments presented in RDGB Royal Estate Farms LLC, RDGK Rest View Estates LLC, RDGM Rawhide Estates LLC, RDGF River View Estates LLC, RDGS Real View LLC's Reply to Futurewise's and Friends of Clark County's Answer, Raising New Issues, to the Clark County Citizens United, Inc. Petition for Review filed on November 18, 2019, and incorporates those arguments by reference as if set forth fully herein.

VI. CONCLUSION

For the foregoing reasons, Respondent 3B NW LLC respectfully requests that this Court deny review of Futurewise's Issue 1.

Respectfully submitted this 18th day of November 2019.

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DECLARATION OF SERVICE

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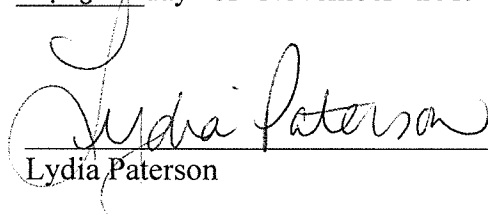
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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Executed this 18th day of November 2019 at Vancouver,
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Lydia Paterson

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